

REMARKS

Drawing Objection

The reference numerals identified by the examiner have been added to the drawings in Figures 2 and 3.

Rejection of Claims 1, 5, 11 and 21 under 35 USC 112 second paragraph

Claims 1, 5, 11 and 21 have been amended to overcome the rejections under 35 USC 112 second paragraph. Claim 1 has been amended to correct the antecedent identifier as suggested by the examiner. Claim 5 has been amended to distinctly identify that the latch assembly is adapted to engage the rim. Claims 1 and 21 have been amended to correct the antecedent identifier as suggested by the examiner.

Rejection of Claim 1-3, 10-14, 16, 17, 19 and 21 under 35 USC 102(e) as being anticipated by Princell (6,505,488)

Claims 1, 11 and 21 include the limitation of a second flexible member having one end directly connected to a vehicle and another end connected to a locking member. This relationship is not disclosed in the Princell reference. The flexible cable 52A in the Princell reference is attached at both of its end to the locking mechanism 54, as shown in Figure 18 and as described at column 8 lines 22-28. Therefore the Princell reference does not teach each and every limitation of Claims 1, 11 and 21. (see MPEP section 2131) Withdrawal of the above rejection is respectfully requested.

As independent Claims 1, 11 and 21 are not anticipated similarly dependant claims 2, 3 10, 12-14, 16, 17 and 19 are also not anticipated. Withdrawal of the above rejection is respectfully requested.

Rejection of Claim 11-14, 17 and 21 under 35 USC 102(b) as being anticipated by Sauner (5,975,498)

Claims 11 and 21 as amended include the limitation that a second flexible member is attached directly to a vehicle at one end and to locking member at another end. This relationship is not disclosed in the Sauner reference. Specifically the Sauer reference on column 2 lines 55-65 states "a short length of auxiliary flexible steel cable 45 has an upper end portion 47 which is rigidly secured to the winch cable 18 by a clamp type or crimp cable connector 49. The connector 49 is rigidly secured to the winch cable 18 at a location spaced above the retaining bracket 24, and the cable 45 extends downwardly through a laterally offset hole 53 within the bracket 24. The cable 45 has a lower end portion 56 which receives a surrounding collar or stop fitting 58 also positively secured or crimped to the cable 45. The fitting 58 is spaced below the top of the bracket 24, as shown on FIG. 1. The auxiliary cable is therefore not secured to a vehicle, as required in the above claims, but is rather secured to the winch cable at one end and to a retainer bracket at the other end. Therefore the Sauner reference does not teach each and every limitation of Claims 11 and 21. (see MPEP section 2131) Withdrawal of the above rejection is respectfully requested.

As independent Claims 11 and 21 are not anticipated similarly dependant claims 12-14 and 17 are also not anticipated. Withdrawal of the above rejection is respectfully requested.

Rejection of Claim 5 under 35 USC 103(a) as being unpatentable over Princell in view of Klein (4,047,629)

At the outset it is noted that neither the Princell reference nor the Klein reference teaches a second flexible member directly attached at one end to a vehicle and at another end to a locking member as required in Claim 1 and incorporated in dependant Claim 5. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member directly attached at one end to the vehicle and at another end to a locking member in either the Princell or Klein reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, the Klein reference requires an elongated normally horizontal tire support element 16 connected to a cable 22 at the rearward end of the support element 16. The tire support element 16 is pivotally attached to the vehicle by a pin 60. A single cable 22 is attached at the end of the tire support 16 that is not pivotally attached to the vehicle to raise and lower the support. The tire is mounted to a guide 34. There is no teaching or suggestion to include a second flexible member or cable in the reference. The Princell reference teaches a cable 18 attached to a winch at one end and to a tire at another. Additionally, a rigid bar 52 is used to lock the tire in place with a lock mechanism 54 disposed on the bar 52. The lock mechanism 54 includes a lock 90 to prevent theft of the tire. The rigid bar may be replaced by a cable 52A that is attached at both ends to a locking mechanism 54. The teachings of the two references must be taken as a whole (see MPEP 2141.02). As the two references operate in completely different manners with the Princell reference having a rigid bar or cable attached to a locking mechanism that must be unlocked to move the tire up and down via a separate cable attached to a winch and the Klein reference having a cable attached to an end of a pivotally mounted support element, a

combination of the two references would require a substantial redesign of the two mechanisms. (See MPEP 2143) Therefore, withdrawal of the rejection is respectfully requested.

Rejection of Claim 19 under 35 USC 103(a) as being unpatentable over Sauner in view of Klein

At the outset it is noted that neither the Sauner reference nor the Klein reference teaches a second flexible member directly attached at one end to a vehicle and at another end to a locking member as required in Claim 1 and incorporated in dependant Claim 5. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member directly attached at one end to the vehicle and at another end to a locking member in either the Sauner or Klein reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, the Klein reference requires an elongated normally horizontal tire support element 16 connected to a cable 22 at the rearward end of the support element 16. The tire support element 16 is pivotally attached to the vehicle by a pin 60. A single cable 22 is attached at the end of the tire support 16 that is not pivotally attached to the vehicle to raise and lower the support. The tire is mounted to a guide 34. There is no teaching or suggestion to include a second flexible member or cable in the reference. The Sauner reference teaches a short length of auxiliary flexible steel cable 45 which is rigidly secured to the winch cable 18 at one end of the auxiliary cable and includes a stop fitting spaced below the top of a tire mounting bracket 24 at the other end of the cable. The teachings of the two references must be taken as a whole (see MPEP 2141.02). As the two references operate in completely different manners with the Sauner reference having a cable attached to a mounting bracket and the Klein reference having a cable

attached to an end of a pivotally mounted support element, a combination of the two references would require a substantial redesign of the two mechanisms. (See MPEP 2143) Therefore, withdrawal of the rejection is respectfully requested.

Rejection of Claims 4,6,18,20 under 35 USC 103(a) as being unpatenable over Princell in view of Hoagland(4,492,506)

Again, it is noted that the Hoagland reference does not teach a second flexible member attached at one end directly to a vehicle and at another end to a locking member, required in Claims 1 and 11 and incorporated in Claims 4, 6, 18 and 20. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as described above in either the Princell or Hoagland reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, as with the Klein reference outlined above, there is a disclosure in Hoagland of a body 16 including an arm 20 having one end 22 that is pivoted relative to the body 16. The teachings of the two references must be taken as a whole (see MPEP 2141.02). As the two references operate in completely different manners with the Hoagland reference having a cable attached to an end of a pivotally mounted support element, a combination of the two references would require a substantial redesign of the two mechanisms. (See MPEP 2143) Therefore, withdrawal of the rejection is respectfully requested.

Rejection of Claims 18, 20 under 35 USC 103(a) as being unpatenable over Sauner in view of Hoagland(4,492,506)

Again, it is noted that the Hoagland reference does not teach a second flexible member attached at one end directly to a vehicle and at another end to a locking member, required in Claim 11 and incorporated in Claims 18 and 20. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as described above in either the Sauner or Hoagland reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, as with the Klein reference outlined above, there is a disclosure in Hoagland of a body 16 including an arm 20 having one end 22 that is pivoted relative to the body 16. The teachings of the two references must be taken as a whole (see MPEP 2141.02). As the two references operate in completely different manners with the Hoagland reference having a cable attached to an end of a pivotally mounted support element, a combination of the two references would require a substantial redesign of the two mechanisms. (See MPEP 2143) Therefore, withdrawal of the rejection is respectfully requested.

Rejection of Claim 7 under 35 USC 103(a) as being unpatentable over Princell in view of Gasser(4,809,477)

Again, it is noted that the Gasser reference does not teach a second flexible member attached at one end directly to a vehicle and at another end to a locking member. In fact the gasser reference teaches a toggle bolt used for roofing in a building. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as described above in

either the Sauner or Gasser reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, there is no motivation to combine the two references as one of ordinary skill in the art would not look to a non-analogous art such as a roof fastener for an application in a tire latch assembly. (see MPEP section 2141.01(a)) There is no teaching in either of the references to use a clamp member that includes a toggle member having a longitudinal portion, a threaded portion, a base plate and a threaded fastener. The longitudinal portion includes a pair of extending wings and the base plate includes a portion forming a plate aperture. The threaded portion is inserted into the plate aperture for sandwiching the rim between the base plate and the pair of wings. Therefore, applicant's attorney respectfully requests withdrawal of the rejection.

Rejection of Claims 8 under 35 USC 103(a) as being unpatentable over Princell

As outlined above, the Princell reference does not teach a second flexible member attached directly to the vehicle at one end and to a lock member at another end. Additionally, The Princell reference teaches a cable 18 attached to a winch at one end and to a tire at another. Additionally, a rigid bar 52 is used to lock the tire in place with a lock mechanism 54 disposed on the bar 52. The lock mechanism 54 includes a lock 90 to prevent theft of the tire. The rigid bar may be replaced by a cable 52A that is attached at both ends to a locking mechanism 54. The Princell reference does not teach a second flexible member having a second load capacity. The Princell reference teaches a lock that must be unlocked to move the tire up and down via a winch and cable. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second

flexible member as described above, applicant's attorney respectfully requests withdrawal of the rejection.

Rejection of Claims 16 under 35 USC 103(a) as being unpatenable over Sauner

As noted above, the Sauner reference does not teach a second flexible member attached at one end directly to a vehicle and at another end to a locking member as required by Claim 11 and incorporated into claim 16. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as described above, applicant's attorney respectfully requests withdrawal of the rejection.

Conclusion

It is argued that the present amendment places all of the claims in condition for allowance and a notice to that effect is respectfully requested. The Examiner is invited to telephone the undersigned attorney if doing so would advance prosecution of this case.

Respectfully submitted,



Kevin S. MacKenzie
Registration No. 45,639
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
2701 Troy Center Drive, Suite 330
P.O. Box 7021
Troy, MI 48007-7021
(248) 647-6000

Attorney for Applicant

Date: June 19, 2006